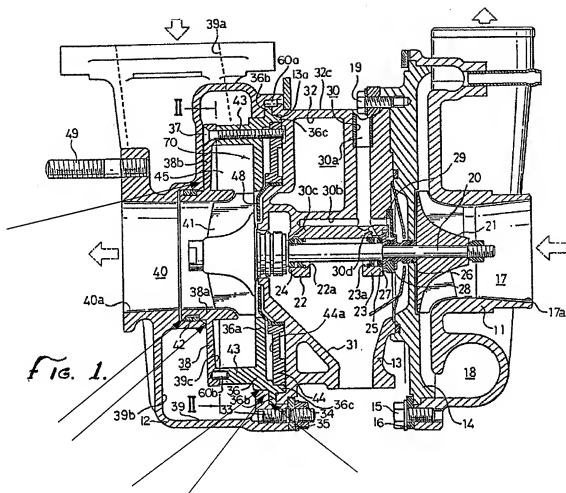


### **REMARKS/ARGUMENTS**

This amendment is responsive to the Office Action dated March 3, 2009. The Office Action rejected Claims 1-10 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,907,952 to Inoue et al. ("Inoue"). Applicants have amended the specification and Claims 1 and 3-10. Claim 2 has been cancelled. Limitations previously appearing in Claim 2 have been incorporated into independent Claim 1. The amendments to the specification clarify a reference to alternate embodiments of variable nozzle devices. The amendments to the claims serve to more clearly define the invention, conform the claims to U.S. patent practice, and overcome the rejections. No new matter has been added by these amendments. In light of the remarks presented below, Applicants request reconsideration and allowance of all now-pending claims of the present application.

The invention of the present application relates to a turbocharger comprising a variable nozzle device and an exhaust housing which is mechanically and/or thermally decoupled from the variable nozzle device. In particular, independent Claim 1 now recites in the currently amended form "an exhaust housing being mechanically and/or thermally decoupled from the variable nozzle device," "wherein the peripheral ring is radially and axially spaced from the exhaust housing, so that any contact between the exhaust housing and the peripheral ring is avoided."

These limitations are not found in Inoue. Rather, Inoue teaches a turbocharger with a turbine casing 12, vane holder (base plate) 36, and top plate 38 jointly constituting a turbine housing. Four moveable vanes 45 are fixedly supported on rotatable pins 47 axially inserted through respective holes defined in the vane holder 36. There are multiple points of contact between the vane holder 36 and the turbine casing 12 and additionally between the top plate 38 and the turbine casing. The below diagram illustrates examples of some of these points of contact as indicated by the arrows added to Fig. 1 of Inoue.



Thus, the turbocharger of Inoue may not be said to meet the limitations of “an exhaust housing being mechanically and/or thermally decoupled from the variable nozzle device,” “wherein the peripheral ring is radially and axially spaced from the exhaust housing, so that *any* contact between the exhaust housing and the peripheral ring is avoided” (emphasis added). Applicants note that the Office Action of March 3, 2009 indicated that the limitation formerly appearing in cancelled Claim 2 requiring there not be contact between the exhaust housing and the peripheral ring is met by the space at the sealing ring 42. However, Applicants respectfully submit that a single point without contact does not meet the limitation now required by Claim 1 that “any contact between the exhaust housing and the peripheral ring is avoided” (emphasis added). Rather, Inoue illustrates numerous points of contact between the turbine casing 12 and

the vane holder 36 and top plate 38, as shown above. Further, due to the above illustrated points of contact, the turbine casing 12 is neither thermally nor mechanically decoupled from the vane holder 36 or top plate 38. Accordingly, Applicants respectfully submit that the limitations of currently amended independent Claim 1 are not met by Inoue.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicants respectfully submit that Claims 1 and 3-10 of the present application are now in condition for allowance. It is respectfully requested that a Notice of Allowance for all pending claims be issued in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the sole independent claim has been argued as set forth above and thus Applicants will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicants do not concede that the dependent claims are not independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary.

Appl. No.: 10/540,375  
Amdt. dated May 1, 2009  
Reply to Office Action of March 3, 2009

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Christopher H. Orders  
Registration No. 57,151

**Send all correspondence regarding this application to:**

Chris James  
Honeywell Transportation Systems  
3201 West Lomita Boulevard  
Torrance, CA 90505  
Tel (310) 791-7850  
Fax (310) 791-7855

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE  
UNITED STATES PATENT & TRADEMARK OFFICE ON May 1, 2009.

LEGAL02/31292433v1